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January 15, 2024

Via ECF

Magistrate Judge Taryn A. Merkl
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

RE: *KATHYANN SMART v. USA LABOR FOR HIRE, INC., RC GLOBAL ENERGY GROUP, INC., and OLGEK TSIMBLER, In His Individual and Official Capacities, Case No. 20-CV-5594 (TAM)*

Dear Judge Merkl:

I am counsel for Plaintiff in the above action, and I submit the below proposed limiting instruction pursuant to the Court's January 10, 2024, Text Order. I have contacted defense counsel for input; however, he has declined to propose language or provide feedback.

As for the text communications which Plaintiff seeks to admit as Exhibits L, M, and N (formerly 57, 59, and 71), Plaintiff proposes the following limiting instruction to the jury:

Unless otherwise stated, the text communications admitted into evidence as Exhibits L, M, and N, should only be considered in determining the nature of the parties' employment relationship. Specifically, the jury should consider whether they reflect an employer/employee relationship, or an independent contractor relationship. The jury should not make specific assessments about the truth of the individual text communications themselves.

I thank the Court for its time and consideration.

Respectfully Submitted,

/s/ Steven Fingerhut
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CC: Garry Pogil, Esq. (*via ECF*)